THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.27893 of 2005

Dated:1st August, 2006

Between:

A.K.Yadagiri.

…..PETITIONER

AND

The Regional Manager, A.P.S.R.T.C.,
Khammam Region, Khammam District
& another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.27893 of 2005

ORDER:

This writ petition is filed seeking to declare the action of the respondents in not paying the gratuity amount for the out of service period i.e., from the date of removal to till the date of reinstatement (i.e., 3-3-1971 to 22-2-1984) as illegal and consequently direct the respondents to pay the difference of gratuity amount for the above said period.

The petitioner joined the service of the respondents-APSRTC as Conductor on 7-2-1968. While working as such, he was removed from service by orders dated 3-3-1971. Assailing the said order, the petitioner raised an industrial dispute in I.D. No. 239 of 1980, and the Labour Court, vide award dated 22-2-1984, allowed the I.D., set aside the order of removal and directed the respondents to reinstate him with continuity of service and attendant benefits, but without back-wages. Pursuant to the said award, the petitioner was reinstated into service, and on attaining the age of superannuation, he retired from service on 31-3-2005.

It is the case of the petitioner that at the time of his retirement, the respondents did not pay him gratuity for the period from 3-3-1971 to 22-2-1984 i.e., from the date of passing of order of removal till the date of his reinstatement into service by virtue of the award. It is the case of the petitioner that he made representation to the 2nd respondent requesting to pay gratuity for the above-said period in vain. Hence, he filed the present writ petition.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for A.P.S.R.T.C.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondents-APSRTC that the subject-matter of this writ petition is squarely covered by a judgment of a learned single Judge of this court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**[1], wherein it was held that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result of the order of removal.

Inasmuch as, the Labour Court, vide its award dated 22-2-1984 passed in I.D. No. 239 of 1980, while setting aside the order of removal dated 3-3-1971 passed against the petitioner, directed the respondents to reinstate the petitioner with continuity of service and without back-wages, the petitioner is entitled to be paid gratuity for the period he remained out of employment from 3-3-1971 to 22-2-1984, i.e. from the date of removal order till the date of his reinstatement into service, and the action of the respondents in denying gratuity to the petitioner for the aforesaid period, is illegal and arbitrary.

Since the facts of this case, are squarely covered by the judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**, following the said judgment, and for the reasons mentioned above, this writ petition has to be allowed, and it is accordingly allowed in terms thereof. The respondents shall

compute the gratuity payable to the petitioner taking into account the out of employment period i.e. from

03-3-1971, on which day order of removal was passed to

22-2-1984, on which day, he was reinstated into service by virtue of the award of the Labour Court, and after computing, pay the balance gratuity to the petitioner. No costs.

N.V. RAMANA, J.

Dated 1st August, 2006.
Grk/nsr

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[1] 1998 (3) ALD 76